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10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. **2011-858**

15 **JUDITH ANN GRUPP**
16 **a.k.a. JUDITH ANN SILVER**
17 **316 South 19th Street**
18 **San Jose, CA 95116**

A C C U S A T I O N

17 **Registered Nurse License No. RN 206261**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

- 22 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
24 Consumer Affairs.
- 25 2. On or about May 31, 1970, the Board of Registered Nursing issued Registered Nurse
26 License Number RN 206261 to Judith Ann Silver, currently licensed in the name of Judith Ann
27 Grupp (Respondent). The Registered Nurse License was in full force and effect at all times
28 relevant to the charges brought herein and will expire on August 31, 2011, unless renewed.

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1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof.

8 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of
9 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this
10 section, in which event the court order of commitment or confinement is prima facie evidence of
11 such commitment or confinement."

12 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
13 revoke a license on the ground that the licensee has been convicted of a crime substantially
14 related to the qualifications, functions, or duties of the business or profession for which the
15 license was issued.

16 9. Section 118, subdivision (b), of the Code provides that the suspension/expiration
17 /surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
18 disciplinary action during the period within which the license may be renewed, restored, reissued
19 or reinstated.

20 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licentiate found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 REGULATORY PROVISIONS

25 11. California Code of Regulations, title 16, section 1444, states:

26 "A conviction or act shall be considered to be substantially related to the qualifications,
27 functions or duties of a registered nurse if to a substantial degree it evidences the present or
28 potential unfitness of a registered nurse to practice in a manner consistent with the public health,

1 safety, or welfare. . . .”

2 CAUSE FOR DISCIPLINE

3 (Substantially Related Conviction)

4 12. Respondent is subject to disciplinary action under sections 2761(f), 2762(b), 2762(c),
5 2762(d), and/or 490, as defined in section 1444, title 16, of the California Code of Regulations, in
6 that on or about August 24, 2010, Respondent was convicted by her plea of No Contest to the
7 violation of California Vehicle Code section 23152(b), (driving while having a 0.08 percent or
8 higher blood alcohol), a misdemeanor. Imposition of judgment was suspended. Respondent was
9 granted 3 (three) years of Court probation and ordered to serve 12 days of jail time by way of a
10 weekend work program. The Court ordered Respondent to enroll in a 9 (nine) month “First
11 Offender Program” and also ordered her to pay assessed fines and fees. The circumstances of the
12 conviction are as follows:

13 a. On June 13, 2010, after observing the erratic driving of a Blue GMC SUV, a
14 California Highway Patrol Officer initiated a traffic stop. It was 1545 hours. The driver of the
15 GMC SUV, who identified herself to the officer as Judith Grupp (Respondent), showed objective
16 signs and symptoms of intoxication such as the odor of consumed alcoholic beverages on her
17 breath, slurred speech, unsteady balance and gait, and bloodshot, watery, eyes. Respondent was
18 unable to perform the field sobriety exercises as instructed. She agreed to provide the officer with
19 a breath sample (Preliminary Alcohol Sample otherwise referred to as “PAS”) which indicated A
20 breath alcohol count of .237%. After she was arrested, Respondent admitted that she drank two
21 vodka and sodas and champagne at the Elks lodge that day but said that she did not feel
22 intoxicated.

23 PRAAYER

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Registered Nursing issue a decision:

26 1. Revoking or suspending Registered Nurse License Number RN 206261, issued to
27 Judith Ann Grupp

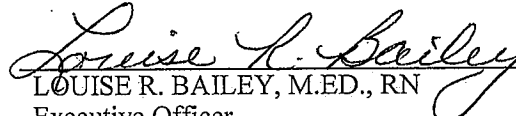
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1 2. Ordering Judith Ann Grupp to pay the Board of Registered Nursing the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: _____

4/15/11


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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